

REMARKS

The application has been amended to place it in condition for allowance at the time of the next Official Action.

Claims 1-6 are pending in the application.

Claim 1 is amended to recite at least one of an electron injection layer and an electron transport layer to clarify that either the electron injection layer or the electron transport layer or both are included in the claim. Such rejection is believed sufficient to address the 35 USC 112, second paragraph rejection of claims 1-6.

Claim 4 is amended to depend from claim 3 which in turn is amended to depend from claim 1 to remove the multiple dependency and address the 37 CFR 1.75(c) objection noted in the Official Action.

Claims 1-3 and 5-6 were rejected under 35 USC 103(a) as being unpatentable over ARAI et al. 6,303,239. That rejection is respectfully traversed.

The Official Action recognizes that ARAI does not disclose either an electron injection layer or an electron transport layer that includes fullerene.

The position set forth in the Official Action is that it is known to those skilled in the art to use fullerene within the electron transport layer at least due to its superior conductivity property.

The Examiner is respectfully requested to provide evidentiary support as the basis for his rejection. The Federal Circuit has held that it is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection is based. *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001). See also MPEP 2144.03(a).

As *prima facie* obviousness does not exist without evidentiary support in the record supporting the Examiner's position as to fullerene, *prima facie* obviousness has not been established.

The present inventors have found that the inclusion of fullerenes in the electronic injection layer or the electronic transport layer prolong life of the light-emitting element, reduce the internal resistance of the light-emitting element and increase the electron injection efficiency. See page 6 ([0015]) to page 7 ([0017]).

ARAI neither teaches nor suggests these advantages and as the Examiner has not provided any other evidence in support of fullerenes, it would not have been obvious in view of ARAI to include fullerenes in at least one of the electron transport layer and the electron injection layer as recited.

The dependent claims are believed patentable at least for depending from an allowable independent claim.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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